

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Application No.: 09/994,560  
Confirmation No.: 8731  
First-Named Inventor: Harold L. Bennett  
Filing Date: November 27, 2001  
Group Art Unit: 1714  
Examiner: Cephia D. Toomer  
Attorney Docket No.: 31088-2  
Title: IMPROVED PROCESS FOR PRODUCTION OF LOW  
TEMPERATURE CHAR DURING PRODUCTION OF LOW  
TEMPERATURE TARs

**REVISED PETITION TO REVIVE ABANDONED PATENT**  
**IN ACCORDANCE WITH 37 C.F.R. § 1.137 (a), (b)**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Applicant hereby petitions to revive United State Application No. 09/994,560, pursuant to 37 C.F.R. § 1.182, or, alternatively, under § 1.137(a) or (b). This patent became abandoned for failure to timely respond to an Office Action, which response was due April 15, 2003. However, the files of Applicant's counsel reflect that a response was filed on May 15, 2003, including a request for a 1 month extension of time and the requisite fee, as well as an authorization to deduct any fees for any additional extensions of time from a valid deposit account.

The files further reflect that:

1) On July 24, 2003, the Examiner contacted the office of Applicant's counsel, and indicated that the file wrapper at the PTO did not include any response to the January 15 Office Action;

2) In response, office of Applicant's counsel confirmed that, according to its fax records, it had received confirmation that the PTO's fax bank had received all pages of the response on May 15. The Examiner believed the response may have been submitted to the scanning department at the PTO.

The office of Applicant's counsel indicated that, if the Examiner was unable to locate the response to the office action, it would provide another copy of the response. However, no such request was ever received by Applicant's counsel. See Exhibits A and B (a copy of the response, including the fax transmittal confirmation, and contemporaneous notes recorded at the office of counsel for the applicant, recording communications with the Examiner, respectively).

Applicant asks for a determination by the Director, pursuant to 37 C.F.R. § 1.182, that the application was never properly abandoned, because the required response was timely filed, and that, rather than a Notice of Abandonment, the Patent Office should have either allowed the application or issued an Office Action stating the grounds for continued rejection or objections.

Alternatively, Applicant asks that the application be revived pursuant to 37 C.F.R. § 1.137(a), because the abandonment was not the product of any delay in filing a response to the Office Action, and, therefore, it was unavoidable.

As a third alternative, Applicant asks that the application be revived pursuant to 37 C.F.R. § 1.137(b), because any delay in filing this petition was unintentional. Harold Bennett, the inventor and principal of the assignee, only recently learned, when he attempted to look up the file on line, that the file had become abandoned. *See* Exhibit C, Declaration of Harold Bennett. Although a Notice of Abandonment was sent to the office of Applicant's counsel, Mr. Bennett never received a copy of that Notice.

A \$400 fee for the petition pursuant to § 1.182, as set forth in § 1.17(f), is enclosed. The Office is authorized to charge any additional fees required to Deposit Account 23-3030, including, should the Commissioner conclude that the patent was unavoidably or unintentionally abandoned, the difference in the fees required under §§ 1.82 and 1.137(a)(2) or (b)(2). In that event, and since the response to the Office Action was submitted by fax on May 15, 2003, no outstanding response is required under 37 C.F.R. § 1.137(a)(1) or (b)(1). However, a copy of that response (including fax cover page) is attached as Exhibit A, against the possibility that the Patent Office never located the misplaced response. Since the application is for a utility patent application filed after June 8, 1995 no terminal disclaimer is required pursuant to § 1.137(a)(4) or (b)(4).

The Commissioner is respectfully requested to contact the undersigned attorney by telephone to resolve any issues regarding this petition and/or application.

Respectfully submitted,

By: /s/Quentin G. Cantrell  
Quentin G. Cantrell, Reg. No. 47,469  
Woodard, Emhardt, Moriarty, McNett & Henry LLP  
111 Monument Circle, Suite 3700  
Indianapolis, IN 46204-5137  
(317) 713-4953

# TRANSMITTAL FORM

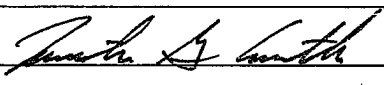
(to be used for all correspondence after initial filing)

		Application Number	09/994,560
		Filing Date	November 27, 2001
		First Named Inventor	Harold L. Bennett
		Group Art Unit	1714
		Examiner Name	Cephia D. Toomer
Total Number of Pages in this Submission	10	Attorney Docket Number	31088-2

## ENCLOSURES (check all that apply)

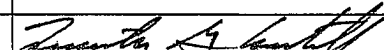
<input checked="" type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input checked="" type="checkbox"/> Amendment Response to Final O.A. <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input checked="" type="checkbox"/> Extension of Time Request (1 month) <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Documents <input type="checkbox"/> Response to Missing Parts/ Incomplete Application Revised Cover Sheet <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.16 (l) and 1.52(c).	<input type="checkbox"/> Assignment Papers and recordation form <input type="checkbox"/> Drawing(s) (3) Redlined to show changes <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition Routing Slip (PTO/SB/69) and Accompanying Petition <input type="checkbox"/> To Convert a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation, Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Small Entity Statement <input type="checkbox"/> Request for Refund	<input type="checkbox"/> After Allowance Communication to Group <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input type="checkbox"/> Additional Enclosure (please identify below)
Remarks		

## SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual Name	Quentin G. Cantrell Woodard, Emhardt, Naughton, Moriarty & McNett
Signature	
Date	May 15, 2003

## Certificate of Mailing

I hereby certify that this correspondence is being facsimile transmitted to the Patent and Trademark Office to (703) 746-4176 on this date:

Typed or printed name	Quentin G. Cantrell		
Signature		Date	May 15, 2003

EXHIBIT

A

tabbles

# FEE TRANSMITTAL FOR FY 2003

Patent fees are subject to annual revision.  
Transmitted Via Facsimile to: 703-746-4176

## Complete if Known

Application Number 09/994,560  
Filing Date November 27, 2001  
First Named Inventor Harold L. Bennett  
Group Art Unit 1714  
Examiner Name Cephia D. Toomer  
Attorney Docket Number 31088-2

Total Amount of Payment (\$55.00)

### METHOD OF PAYMENT

☐ Check ☐ Credit card ☐ Money Order ☐ Other ☐ None

#### ☒ Deposit Account:

Deposit Account Number 23-3030  
Deposit Account Name Woodward, Emhardt, Moriarty, McNett & Henry LLP

The Commissioner is authorized to: (check all that apply)

- ☒ Charge fee(s) indicated below ☐ Credit any overpayments  
☒ Charge any additional fee(s) during the pendency of this application, excluding the payment of issue fees  
☐ Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.

### FEE CALCULATION

#### 1. BASIC FILING FEE

Large Fee Code	Entity Fee (\$)	Small Fee Code	Entity Fee (\$)	Fee Description	Fee Paid
1001	750	2001	375	Utility Filing Fee	
1002	330	2002	165	Design Filing Fee	
1003	520	2003	260	Plant Filing Fee	
1004	750	2004	375	Reissue Filing Fee	
1005	160	2005	80	Provisional Filing Fee	
SUBTOTAL (1) (\$)					

#### 2. EXTRA CLAIM FEES

Total Claims	Extra Claims	Fee From Below	Fee Paid
-20** =		X	
Independent Claims -3** =		X	
Multiple Dependent			

Large Entity Fee Code	Entity Fee (\$)	Small Entity Fee Code	Entity Fee (\$)	Fee Description
1201	84	2201	42	Claims in excess of 20
1203	280	2203	140	Independent claims in excess of 3
1204	84	2204	42	Multiple dependent claim, if not paid
1205	18	2205	9	**Reissue independent claims over original patent
				**Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) (\$)

\*\*or number previously paid, if greater; For Reissues, see above

### FEE CALCULATION (continued)

#### 3. ADDITIONAL FEES

Large Entity Fee Code	Entity Fee (\$)	Small Entity Fee Code	Entity Fee (\$)	Fee Description	Fee Paid
1051	130	2051	65	Surcharge - late filing fee or oath	
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet.	
1053	130	1053	130	Non-English specification	
1812	2,520	1812	2,520	For filing a request for <i>ex parte</i> reexamination	
1804	920*	1804	920*	Requesting publication of SIR prior to Examiner's Action	
1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner's Action	
1251	110	2251	55	Extension for reply within first month	55.00
1252	410	2252	205	Extension for reply within second month	
1253	930	2253	465	Extension for reply within third month	
1254	1,450	2254	725	Extension for reply within fourth month	
1255	1,970	2255	985	Extension for reply within fifth month	
1401	320	2401	160	Notice of Appeal	
1402	320	2402	160	Filing a brief in support of an appeal	
1403	280	2403	140	Request for oral hearing	
1451	1,510	1451	1,510	Petition to institute a public use proceeding	
1452	110	2452	55	Petition to revive - unavoidable	
1453	1,300	2453	650	Petition to revive - unintentional	
1501	1,300	2501	650	Utility issue fee (or reissue)	
1502	470	2502	235	Design issue fee	
1503	630	2503	315	Plant issue fee	
1460	130	1460	130	Petitions to the Commissioner	
1807	50	1807	50	Petitions related to provisional applications	
1806	180	1806	180	Submission of Information Disclosure Stmt	
8021	40	8021	40	Recording each patent assignment per property (times number of properties)	
1809	750	2809	375	Filing a submission after final rejection (37 CFR 1.129(a))	
1810	750	2810	375	For each additional invention to be examined (37 CFR 1.129(b))	
1801	750	2801	375	Request for Continued Examination (RCE)	
1802	900	1802	900	Request for expedited examination of a design application	
Other Fee (specify)					
* Reduced by Basic Filing Fee Paid					
SUBTOTAL (3) (\$ 55.00)					

#### SUBMITTED BY

Name (Print/Type)

Quentin G. Cantrell

Registration No.

47,469

(Attorney/Agent)

Telephone

(317) 634-3456

Signature

*Quentin G. Cantrell*

Date

May 15, 2003

# REQUEST FOR EXTENSION OF TIME

Atty. Docket No. 31088-2

Serial No. 09/994,560

Applicant Harold L. Bennett

Filing Date  
November 27, 2001

Group

1714

Examiner

Cephia D. Toomer

## Entity

☐

Large

☒

Small

Date Filed

November 27, 2001

Applicant's attorney requests that the date for responding to the Office Action dated January 15, 2003

be extended for one month(s) to and including

May 15, 2003

### Large Entity

### Fee

### Small entity

### Fee

☐1<sup>st</sup> mo. ext.

110

☒1<sup>st</sup> mo. ext.

55

☐2<sup>nd</sup> mo. ext.

410

☐2<sup>nd</sup> mo. ext.

205

☐3<sup>rd</sup> mo. ext.

930

☐3<sup>rd</sup> mo. ext.

465

☐4<sup>th</sup> mo. ext.

1,450

☐4<sup>th</sup> mo. ext.

725

The applicable fee is set forth above. The Patent and Trademark office is authorized to charge any deficiency or apply any overpayment credit to **Deposit Account No. 23-3030**.

Respectfully Submitted,

By



Quentin G. Cantrell

Reg. No. 47,469

Woodard, Emhardt, Moriarty, McNett &amp; Henry LLP

Bank One Center Tower

111 Monument Circle, Suite 3700

Indianapolis, Indiana 46204-5317

(317) 634-3456

## First Class Mail

I hereby certify that this correspondence is being facsimile transmitted to the Patent and Trademark Office to (703) 746-4176 on this date:

Date of Deposit

May 15, 2003

Name of Registered Representative

Quentin G. Cantrell

Signature



Date of Signature

May 15, 2003

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application of:	)	
	)	Before the Examiner
Harold L. Bennett	)	
	)	Cephia D. Toomer
Serial No. 09/994,560	)	
	)	Group Art Unit 1714
Filed: November 27, 2001	)	
	)	
IMPROVED PROCESS FOR PRODUCTION	)	
OF LOW TEMPERATURE CHAR	)	
DURING PRODUCTION OF LOW	)	
TEMPERATURE TARs	)	May 15, 2003

**AMENDMENT UNDER 37 CFR § 1.115**

Commissioner for Patents  
Washington, D.C. 20231

Sir:

In response to the Office Action dated January 15, 2003, please enter the following amendments and consider the following remarks:

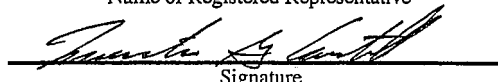
**INTRODUCTION**

Claims 1-21 are pending in the application, and have been rejected or objected to in the Final Office Action. Applicant enters the following Amendment in order to place the Claims which the Examiner has identified as being directed to patentable subject matter into a condition for allowance.

I hereby certify that this paper is being facsimile  
transmitted to the Patent and Trademark Office to (703)  
746-4176 on the date shown below.

Quentin G. Cantrell

Name of Registered Representative



Signature

May 15, 2003

Date of Signature

## IN THE CLAIMS

Please amend the Claims as follows:

1. (Presently amended.) A method for preparing carbon-derived char comprising the steps of:
  - (a) providing a carbonaceous precursor material;
  - (b) lowering the agglomeration value of the carbonaceous precursor material through the addition of inert organic matter;
  - (c) raising the percentage of volatiles in the carbonaceous precursor material to prevent agglomeration and caking;
  - (d) roasting the carbonaceous precursor material for between about 2 hours and about 4 hours in a multi-hearth roaster including a plurality of decks constructed of non-corrosive metal with high-heat transfer characteristics, with the ability to move a thin layer to material with rotating arms equipped with plow-shaped protrusions, in a substantially anaerobic environment at a roasting temperature between about 300 and 700 degrees Celsius; [and]
  - (e) cooling the resultant solid char[.];
  - (f) after step (d) and before step (e) extracting tar gases;
  - (g) before step (e) filtering the tar gases; and
  - (h) before step (e) washing the tar gases.



2. (Cancelled.)
  3. (Cancelled.)
  4. (Cancelled.)
  5. (Cancelled.)
  6. (Currently Amended) The method of claim 1 [5 wherein the roaster further includes a plurality of decks constructed of non-corrosive metal with high-heat transfer characteristics,] wherein each deck includes floor supports and ceilings formed from thin-shelled reinforced concrete double-wall construction.
  7. (Original) The method of claim 6 wherein the roaster further includes a number of outside walls and wherein each outside wall has at least one port adapted to provide anaerobic access to the roaster.
  8. (Presently Amended) The method of claim [2] 1 wherein step (f) includes the use of injected steam to assist in the removal of the tar and producer gases.
  9. (Presently Amended) The method of claim 1 further comprising the step of after step (a) and before step (d) adding a carbonate acceptor material to facilitate sulfur removal.
- 
10. (Presently Amended) The method of claim 1 wherein step (e) further includes depositing the resultant solid char in an inverted cone-shaped bin and injecting steam thereinto.

11. (Presently Amended.) A low-emission solid carbonaceous fuel produced by the following process steps:

- a) providing a carbonaceous precursor material;
- b) lowering the agglomeration value of the carbonaceous precursor material through the addition of inert organic matter;
- c) raising the percentage of volatiles in the carbonaceous precursor material to prevent agglomeration and caking;
- d) roasting the carbonaceous precursor material for between about 2 hours and about 4 hours in a multi-hearth roaster including a plurality of decks constructed of non-corrosive metal with high-heat transfer characteristics, with the ability to move a thin layer to material with rotating arms equipped with plow-shaped protrusions, in a substantially anaerobic environment at a roasting temperature between about 300 and 700 degrees Celsius; [and]
- e) cooling the resultant solid char[.];
- f) after step (d) and before step (e), extracting tar gases;
- g) before step (e), filtering the tar gases; and
- h) before step (e) washing the tar gases.

12. (Cancelled.)

13. (Cancelled.)

14. (Cancelled.)

15. (Cancelled.)

16. (Currently Amended.) The method of claim 11 [15 wherein the roaster further includes a plurality of decks constructed of non-corrosive metal with high-heat transfer characteristics,] wherein each deck includes floor supports and ceilings formed from thin-shelled reinforced concrete double-wall construction.
17. (Original) The method of claim 16 wherein the roaster further includes a number of outside walls and wherein each outside wall has at least one port adapted to provide anaerobic access to the roaster.
18. (Currently Amended) The method of claim [12] 11 wherein step (f) includes the use of injected steam to assist in the removal of the tar gases.
19. (Presently Amended) The method of claim 11 further comprising the step of after step (a) and before step (d) adding a carbonate acceptor material to facilitate sulfur removal.
20. The method of claim 11 wherein step (e) further includes depositing the resultant solid char in an inverted cone-shaped bin and injecting steam thereinto.
21. (Cancelled.)

### **REMARKS**

The office action identified Claims 6-8 and 16-18 as being directed to patentable subject matter, but objected to them as being dependent upon rejected claims.

Claim 1 has been re-written herein to include all of the limitations of Claim 6, with the exception of "each deck includes floor supports and ceilings formed from thin-shelled reinforced concrete double-wall construction." Because the plurality of decks is nowhere taught or suggested in the prior art, it is respectfully submitted that this limitation is not required to place Claim 1 in condition for allowance. This limitation has been retained in Claim 6, which now depends directly from Claim 1.

Claims 9 and 10 depend from Claim 1, and therefore include each of its limitations. It is therefore respectfully submitted that they are in a condition for allowance.

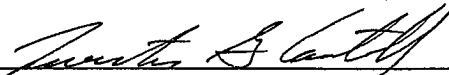
Claim 11 has been amended, analogously to Claim 1, to include all of the limitations of Claim 16, except "each deck includes floor supports and ceilings formed from thin-shelled reinforced concrete double-wall construction." Similarly, Claim 16 retains this limitation in a dependent claim. Also analogously, Claims 19 and 20 are believed to be in a condition for allowance because of the new limitations added herein to the claim from which they depend.

## CONCLUSION

For the foregoing reasons, Applicant submits that all claims are in a condition for allowance, and respectfully requests a Notice of Allowance for all pending claims.

No fees are believe to be necessary. Nevertheless, the Commissioner is hereby authorized to charge any fees due, including statutory fees for extensions of time, to Deposit Account No. 23-3030, but not to include any payment of issue fees.

Respectfully submitted,

By 

Quentin G. Cantrell

Reg. No. 47,469

Woodard, Emhardt, Naughton,

Moriarty & McNett

Bank One Center/Tower

111 Monument Circle, Suite 3700

Indianapolis, Indiana 46204-5137

(317) 634-3456

**WOODARD, EMHARDT, NAUGHTON, MORIARTY & McNETT**

PATENT AND TRADEMARK ATTORNEYS

BANK ONE CENTER/TOWER  
111 MONUMENT CIRCLE, SUITE 3700  
INDIANAPOLIS, INDIANA 46204-5137  
Fax 317-637-7561

**FAX COVER SHEET**

NO. OF PAGES: COVER SHEET PLUS 10 PAGE(S)

TO: Patent and Trademark Office  
Attn: Examiner Cephia D. Toomer  
Group Art 1714  
FAX TELEPHONE NO.: 703-746-4176

FROM: Quentin G. Cantrell  
DATE: May 15, 2003

If problems occur during transmission, please contact us at one of the following:

VOICE PHONE number: (317) 634-3456  
PRIMARY FAX number: (317) 637-7561  
SECONDARY FAX number: (317) 637-7587

SPECIAL REMARKS: App No. -09/994,560 (Our Dkt No. 31088-2)

**Transmittal Form**

**Fee Transmittal Form**

**Request For Extension Of Time**

**Amendment Response to Final Office Action.**

**THIS MESSAGE IS INTENDED ONLY FOR THE ADDRESSEE(S) IDENTIFIED ABOVE.**

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TRANSACTION REPORT

P. 01

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DATE	START	RECEIVER	TX TIME(L)	PAGES	TYPE	NOTE	M#	DP
MAY-15	02:36 PM	17037464176	3' 54" (2)	11	SEND	OK	767	

TOTAL : 3M 54S PAGES: 11

**WOODARD, EMHARDT, NAUGHTON, MORIARTY & MCNETT**

PATENT AND TRADEMARK ATTORNEYS

BANK ONE CENTER/TOWER  
111 MONUMENT CIRCLE, SUITE 3700  
INDIANAPOLIS, INDIANA 46204-5137  
Fax 317-637-7561

**FAX COVER SHEET**

NO. OF PAGES: COVER SHEET PLUS 10 PAGE(S)

TO: Patent and Trademark Office  
Attn: Examiner Cephia D. Toomer  
Group Art 1714  
FAX TELEPHONE NO.: 703-746-4176

FROM: Quentin G. Cantrell  
DATE: May 15, 2003

If problems occur during transmission, please contact us at one of the following:

## Gropp, Noreitta

---

**Subject:** 31088-2 Bennett 09/994,560

**Status:** Not Started

**Percent Complete:** 0%

**Total Work:** 0 hours

**Actual Work:** 0 hours

**Owner:** Gropp, Noreitta

9/25/02 - QGC working atty on this file per T.J.  
Amendment due 9/26. (10/26/02 - 6 month final.)  
Had dktg move deadline two weeks; started trans. fm.  
9/26/02 -- Filed Amendment & 2-month E/T.

FINAL OA 4/15-7/15

2/25/03 - Ltr client recom'g abandon rejected claims & get patentable ones issued.

2/25/03 - Rpt'd Final O.A. to client

3/21/03 - reminded Q & asked if he had spoken w/client recently.

3/20/03 - e-mailed Quentin asking if he had spoken w/client recently.

4/11/03 - called Quentin's to O.A. due date(s).

4/15/03 - Today is the 3-month for response to the final office action; I moved the date one month. Have you heard from the client? Yes, I did. I believe we're going to file a response essentially implementing the examiner's suggestions, but not today. q

4/13/03 - e-mailed Quentin reminder of 4-month due date of 5/15.

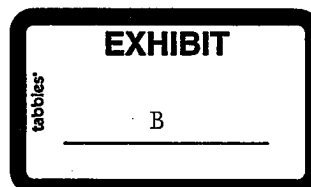
5/15/03 - per Quentin we are going to file response to O.A. 5/15 plus 1 month E/T.

5/15/03 - filed response to final O.A. and 1-month E/T via fax

6/11/03 - Ltr client re publication.

7/24/03 - received phone call from Examiner Toomer who had not received our 5/15 filed response to final O.A. & 1-month E/T which was faxed on 5/15. She said that it might be in scanning as all documents are now scanned in order to eliminate paperwork. I said that I would pull the file and verify that the fax had been received and would call her.

7/24/03 - 10:45 a.m. - Called Examiner Toomer's direct number (703-308-2509). Had to leave voice mail - verified that fax had been sent and received according to our machine by the PTO's office (we have confirmation that all pages went through). I left my name and phone no & Quentin's name and said I would wait for her call if she wished me to refax the document or whatever she wished me to do.





**DECLARATION OF HAROLD BENNETT**

I, Harold Bennett, on my oath, declare as follows:

1. I have personal knowledge of the facts contained in this declaration. I am over the age of eighteen (18), and am competent to make this Declaration and to testify with regard to its contents.

2. I am the inventor and assignor of U.S. Patent Application No. 09/994,560, filed Nov. 27, 2001, entitled "Improved Process for Production of Low Temperature Char During Production of Low Temperature Tars."

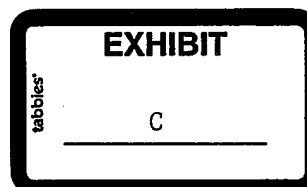
3. I only recently learned that my application had become abandoned. Because of the recent increase in oil prices, I believe my invention will be of increased value, and I have had opportunity to consider some new business opportunities involving my invention. This recently lead me to check on the status of my application on line, but I could find no record of it.

4. When I failed to find any record of my application, I contacted my attorneys. That was on July 11, 2008. They indicated that the file was in off-site storage, and that they would contact me when the file had been retrieved.

5. On July 14, 2008, my attorneys contacted me, and informed me that the Patent Office had sent a Notice of Abandonment on Nov. 28, 2003.

6. Based on our records, the Notice of Abandonment was issued by the Patent Office on the mistaken belief that we had not responded to a January 15, 2003 Office Action. According to our records, a response to the January 15, 2003 Office Action was filed on May 15, 2003, along with a petition and fee for a 1 month extension of time, and was therefore timely.

7. Furthermore, based on our records, the Patent Office communicated with the office of my attorneys on July 24, 2003, because the Examiner could not find the response that



was filed on May 15. According to our records, the Examiner indicated that the response might be with the scanning department. My attorneys' office indicated that, if that turned out to be incorrect, they could send another copy, but no request for an additional copy was ever received.

8. Because there was, in fact, no delay in filing the response to the January 15 Office Action, the abandonment was unavoidable.

9. Between May 15, 2003, and July 11, 2008, I believed that my application was still pending, and awaiting action by the Patent Office.

10. Consequently, any delay in filing a petition to revive the application was unintentional.

11. The foregoing statements are true to the best of my knowledge and belief. I know that if I have made any willfully false statements I may be subject to punishment for perjury.



*Harold L. Bennett*  
Harold Bennett

